

11-22-04

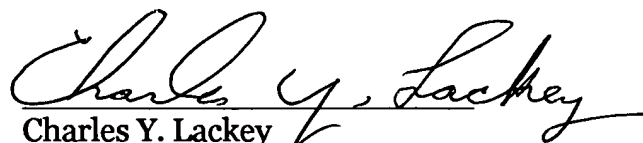
JFW/PAC
C P



EXPRESS MAIL CERTIFICATE

"EXPRESS MAIL" LABEL NUMBER : ER855747355US
DATE OF DEPOSIT : November 19, 2004
Filed : July 7, 2003
For : Waste Container with
Hidden Slides

I hereby certify that the enclosed Petition to Revive in U. S. Pat. Appln. Ser. No. 10/613,306 (James L. Rapier III) and a return mailing postcard are being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to Mail Stop PETITION, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.


Charles Y. Lackey
Reg. No. 22,707
336-659-8249 (p)
336-659-4711 (f)



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of : James L. Rapier III
Serial Number : 10/613,306
Filed : July 7, 2003
For : Waste Container with
Hidden Slides

PETITION TO REVIVE ON THE GROUNDS OF UNAVOIDABLE DELAY

Mail Stop PETITION
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

This Petition has been filed in view of the receipt of a Notice of Abandonment mailed October 19, 2004, a copy of which is herewith attached. The delay was unavoidable because the undersigned was not aware of the Notice to File Corrected Application Papers until the Notice of Abandonment was received October 22, 2004. When the Notice was received, the undersigned called the Customer Service Center of the USPTO at (703) 308-1202 and asked that a copy of the Notice to File Application Papers be faxed to him. This was done, and this Petition to Revive was prepared and filed as soon as possible thereafter.

A Confirmation No. 4309 Updated Filing Receipt was mailed December 19, 2003 in this application and a copy is enclosed. Note that the Serial Number of this application is listed as 10/613,306. The Notice of Abandonment and the Notice to File Corrected Application Papers both list the Serial Number of this application as 10/613,308. Moreover, the Notice to File Corrected Application Papers was mailed October 2, 2004 and the Confirmation No. 4309 Updated Filing Receipt was mailed December 19, 2003. Apparently some of these documents reflect confusing and incorrect information.

It is clear that the undersigned did not receive the Notice to File Corrected Application Papers through the United States Postal Service. If that had happened, Petitioner's docketing and call-up systems would have entered the document in the usual fashion.

Petitioner's docketing and call-up systems function as follows. Petitioner's office has a docket system containing a file for each month of the year. When a document relating to a particular client case requiring responsive

action is received, the document is labeled with a date the response is due and placed in the docket monthly file preceding the response date month by 2 months (60 days). For example, if the response date month is May, the labeled document is placed in the March file.

Each month, Petitioner's assistant and Petitioner review all papers requiring attention. The documents in the March file requiring a response in May are then moved to the April file.

For documents requiring attention the following month ("the response due month"), Petitioner or Petitioner's assistant removes the document requiring a response in the response due month from the file and places it with the client file to which it relates on a special table in Petitioner's office so that he can work directly from these materials to prepare a response for the response due month. He prepares appropriate responses in the order due, i.e.; preparing first the response due earliest in the month.

Petitioner might note when he and Petitioner's assistant conduct the regular monthly file review that a response in a particular case might require more time for preparation than the usual case. In that case, he would designate the document a May file document and place it and its associated file on the special table in his office to be worked on in with the other "due in May cases" with an informal note indicating that a response should be commenced earlier than usual.

A log is maintained by Petitioner's assistant noting the date a document requiring a response is received and the date a response to that document is dispatched (mailed to the USPTO or other entity to which a response is required). The listings of activities in several cases included with Petitioner's First Renewed Petition are completed docket sheet logs compiled by this process.

Petitioner's assistant, Diane B. Smith, supervised by Petitioner, is the person responsible for maintenance of the docket system. In the present application, both Petitioner's assistant and Petitioner reviewed the docket system papers (all 12 months) and the client's complete file when the Notice of Abandonment was received. No documents from the USPTO or other entities were found regarding this application except the return postcard stamped with the filing date and serial number. The affidavits of Petitioner and Petitioner's assistant supporting these facts are enclosed herewith.

Along with the docket sheet logs previously provided for other cases is the docket sheet log for the application upon which this Petition is based. These docket sheet logs illustrate the undersigned's regular practice for providing a docket sheet for each client file and monthly docket sheet file which is reviewed monthly and updated as USPTO actions, notices and responses thereto and applicant amendments and responses are received and dispatched.

As can be seen, nothing is shown as having been received in the present case except the return mail postcard bearing the serial number and filing date (copy attached) applied by the USPTO until the undersigned received the Notice of Abandonment mailed March 12, 2002. Petitioner eventually received a faxed copy of the Notice to File Missing Parts furnished by the USPTO (DeShaun Durham in the Customer Service Center) after a telephone call was made on to obtain a copy of the Notice , but it was never received by the undersigned through the US Postal Service.

It is respectfully requested that this Petition be considered grantable under 37 CFR 137(a). The Petition, the docket sheets and the Declarations of Petitioner's assistant, Diane B. Smith, and Petitioner enclosed herewith show an ongoing and regular practice by Petitioner of entering any action or activity regarding the applications handled by his office to keep track of the status of each application as events occur. A grant of this Petition is therefore respectfully requested.

Petitioner has a well-functioning, constantly maintained docketing system in place which ensures timely responses to all received documents requiring a response. It is urged that this Petition based on unavoidable abandonment be favorably considered.

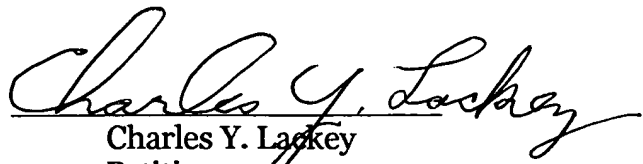
1. The entire delay in responding to the Notice to File Corrected Application Papers was unavoidable since Petitioner did not receive the Notice.

2. Corrected drawings are submitted herewith as a response to the Notice to File Corrected Papers.

3. A check in the amount of \$ 55.00 to cover the Petition Fee for a small entity is submitted herewith.

Petitioner respectfully requests that this Petition be granted.

Respectfully submitted,


Charles Y. Lackey
Petitioner
Reg. No. 22,707

Date: 11-18-2004



PATENT DOCKET SHEET

Client: Pierre A. Gorla

Activity to be undertaken: File pat apln on burial vault

Filed: 9-20-99

Serial Number: 09/399,410

PTO action or notice: OA mailed 3-7-2001

Response to PTO action or notice: Mailed 1 mo ext w/ check for \$55 and
amdmt on 6-9-2001

PTO action or notice: Not of allow mailed 6-27-2001

Response to PTO action or notice: Mailed formal dwgs and check for \$620
7-23-2001

US Pat No. 6,282,763 issued 9-4-2001



PATENT DOCKET SHEET

Client: John M. Jenkins

Activity to be undertaken: Pat Apln on Loading and unloading device

Filed: 12-21-2000

Serial Number: 09/741,250

PTO action or notice: OA mailed 2-26-2001

Response to PTO action or notice: Amdmt to OA mailed 4-11-02

PTO action or notice: Not to file corrected papers mailed 2-28-2001

Response to PTO action or notice: Response to Not mailed 3-1-2001

PTO action or notice: Pat term adjustmt mailed 5-16-02

PTO action or notice: Not of publication of apln mailed 6-27-02

PTO action or notice: Not of Allowance mailed 5-16-2002

Response to PTO action or notice: Response to NoA mailed 7-13-2002
w/ formal dwgs & chk for \$620

PTO action or notice: Not to pay balance of issue fee mailed 8-14-2002

Response to PTO action or notice: Response to Not to pay balance of
Issue fee w/ chk for \$20 8-19-2002

US Pat No. 6,450,742 B1 issued 9-17-2002 received 9-19-2002



PATENT DOCKET SHEET

Client: Mark E. Scoggins

Activity to be undertaken: File Des Pat Apln on guitar and accessories
carrying case

Filed: 10-23-2000

Serial Number: 29/131,377

PTO action or notice: Not of abandonment mailed 3-12-2002

Response to PTO action or notice: Response to Not of abandonment mailed
3-17-2002 w/ check for \$55 and
received 3-25-2002 by PTO

PTO action or notice: Pet granted 6-2-2003



PATENT DOCKET SHEET

Client: James L. Rapier III

Activity to be Undertaken: File Utility Pat App on Waste Container with
Hidden Slides

Filed: July 7, 2003

Serial Number: 10/613,306

Return Postcard: Received stamped and dated with filing dated and ser. No.

PTO Action or Notice: Notice of Abandonment mailed 10/19/2004

Applicant's Response: Called Cust Svc Ctr at (703)- 308-1202 on 10-24-2004
and requested copy of NOA

PTO Action or Notice: Faxed copy to CYL on 10-26-04

Response to PTO or Notice:



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of : James L. Rpiier III

Serial Number : 10/613,306 and 10/613,308

Filed : July 7, 2003

For : WASTE CONTAINER WITH
HIDDEN SLIDES

AFFIDAVIT OF DIANE B. SMITH

I, Diane B. Smith, do hereby state that:

1. I am Administrative Assistant to Charles Y. Lackey assisting him primarily in reviewing, arranging and otherwise overseeing patent and trademark application files in his office;

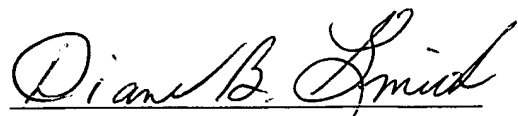
2. The most significant of my duties is the maintenance and constant review of the office docket system for patent and trademark applications ("the docket system");

3. The docket system utilizes a file for each month of the year so that when a document requiring a response is received, it is placed in the appropriate month file to assure that is brought forth for review and action early enough to provides sufficient time for the preparation of a timely response;

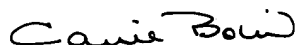
4. The docket system utilizes a two (2) month lead time, and Affiant and Charles Y. Lackey review all documents requiring response each month moving those documents not requiring response the following month to the next following month's file, combining those documents requiring response the following month with the complete related client files, and placing the combined documents and client files on a special table in Charles Y. Lackey's office for his preparation of needed responses;

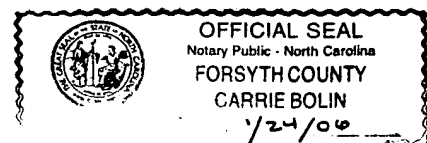
5. Affiant keeps a docket sheet log containing the names of documents by client received that require a time-sensitive response, the dates they are received and the names of the responses and the dates they are dispatched, and examples of such docket sheet logs, including the one for the present application are enclosed herewith;

6. Affiant and Charles Y. Lackey have searched the file jacket and docket records relating to this application, and they indicate that the Notice triggering this abandonment was not received from the US Postal Service but only provided by the USPTO Customer Service Center in response to Charles Y. Lackey's request by telephone.


Diane B. Smith

Sworn and subscribed to this 18th day of November, 2004







IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of : James L. Rapier III
Serial Number : 10/613,306 or 10/613,306
Filed : August 24, 2004
For : WASTE CONTAINER WITH HIDDEN
SLIDES

AFFIDAVIT OF CHARLES Y. LACKEY

I, Charles Y. Lackey, do hereby state that:

1. I am licensed to practice before the United States Patent and Trademark Office having been issued Registration Number 22, 707;

2. I am the attorney of record in the above-referenced application ("the application");

3. The application became abandoned on October 19, 2004 because of the USPTO's failure to receive a response from a Notice to File Missing Parts mailed January 27, 2003 which was never received by Applicant or Affiant through the U.S. Postal Service;

4. Affiant was made aware of the abandonment of the case by receiving the Notice of Abandonment mailed October 19, 2004;

5. After receiving the Notice of Abandonment, Affiant obtained a copy of the Notice to File Missing Parts mailed January 27, 2003 by contacting the Customer Service Center of the USPTO and filed this Petition to Revive;

6. Affiant's docketing and call-up systems include utilizing a file for each month of the year so that when a document requiring a response is received, it is placed in the appropriate month file to assure that it is brought forth for review and action early and safely enough to provide sufficient time for a timely response;

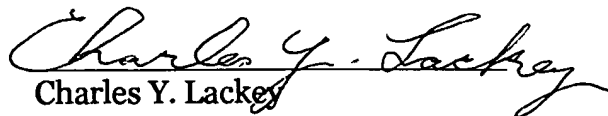
7. Affiant's docket system utilizes a two (2) month lead time so that Affiant and Affiant's assistant review all documents requiring response each month moving those document not requiring response the following month to the next following month's file, combining those documents requiring response the following month with the complete client file, and placing the combined documents and client files on a special table in Affiant's office for preparation of needed responses;

8. Provision is made in the review process to bring forward combined documents and related files one month earlier than normal for those cases where additional time may be required for preparation of an appropriate response;

9. In the present case, both Affiant and Affiant's assistant, Diane B. Smith, reviewed the docket records (all twelve months of files) and the file jacket, and no Office Action was found or indicated. Had such Office Action been received, it would have been included in the docket system where it would have been seen and reviewed at least twice and included in the file jacket;

10. Affiant's docketing system is explained in somewhat greater detail in the Petition to Revive main document to which this Affidavit is related, and Affiant adopts that explanation and incorporates it herein by reference;

11. Based on the facts set forth in the Petition to Revive, this Affidavit and the accompanying Affidavit of Diane B. Smith, it is urged that the abandonment of this application was unavoidable under 37 CFR 1.137(a). A ruling to that effect is respectfully requested.


Charles Y. Lackey

Sworn and subscribed to this 18th day of November, 2004

